

## **IRS Section 45Q Carbon Sequestration Tax Credits**

4-17-20

- Internal Revenue Code Section 45Q provides a tax credit, on a per-ton basis, for CO<sub>2</sub> that is sequestered.
- From 2008–2018, an incentive of \$20 per metric ton for CO<sub>2</sub> geologic storage (sequestered in deep saline aquifers via Class VI wells) and \$10 per metric ton for CO<sub>2</sub> used for enhanced oil recovery (EOR) or enhanced natural gas recovery (EGR) (which uses Class II wells) was available.
- This Section 45Q tax credit was capped at 75 million tons. As of May 2019, the IRS reported that almost 63 million tons had already been claimed.
- In February 2018, with the passage of the Bipartisan Budget Act (BBA) of 2018, the tax credit was updated. The Section 45Q tax credit will increase to \$35 per metric ton for EOR and \$50 per metric ton for geologic storage by 2026. The \$35 tax credit is also available for non-EOR CO<sub>2</sub> utilization and direct air capture projects.
- This credit typically goes to the owner of the carbon capture equipment; however, the BBA enables the credit to be directed to the person that sequesters or uses the carbon dioxide instead.
- On 5/2/19 the IRS published a notice soliciting comments on the 45Q revisions and received 110 comment letters.
- On 2/19/20, the IRS released draft Guidance outlining key provisions that will be important to the interpretation of the new rules. One key draft Guidance was related to the definition of beginning of construction since the BBA required that to qualify for the increased tax credit construction must begin before 1/1/24.
- On 3/13/20 OMB's Office of Information and Regulatory Affairs (OIRA) received for review from the U.S. Treasury Department proposed regulations concerning the increased credit for carbon oxide sequestration under Section 45Q. OIRA's role is to review any rules before proposal and perform an analysis of the cost and benefit of any rules that are to be proposed.
- Treasury regulations that are identified as "major" regulations are subject to review by OMB's OIRA before being published for public comment, pursuant to Executive Order 13771.
- From 3/30/20 – 4/7/20, at the request of several stakeholders, meetings were held with OIRA and Treasury Department representatives to discuss the 45Q tax credit increase.
- These increased tax credits, when finalized, could make CO<sub>2</sub> geologic sequestration more economically feasible and R6 may see more activity for Class VI well sequestration permits. R6 has already had numerous preliminary discussions with parties evaluating the economics of

projects within R6 states but no Class VI applications or technical meetings have been held by R6 and any of the interested parties.

- There is only one active Class VI geologic sequestration project in the nation and it is located at the Archer Daniels Midland ethanol production plant in Decatur, Illinois. EPA R5 has issued two Class VI permits for this facility. This project cost \$208 million with DOE contributing 68% of the money which came from the American Recovery and Reinvestment Act of 2009, which was intended to help the economy recover following the 2008 recession. This facility is designed to sequester 1.1 million metric tons/year.